

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action
	)	No. 13-10200-GAO
	)	
DZHOKHAR A. TSARNAEV, also	)	
known as Jahar Tsarni,	)	
	)	
Defendant.	)	
	)	

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.  
UNITED STATES DISTRICT JUDGE

**JURY TRIAL - DAY TWO - P.M. SESSION**

John J. Moakley United States Courthouse  
Jury Assembly Room  
One Courthouse Way  
Boston, Massachusetts 02210  
Tuesday, January 6, 2015  
1:08 p.m.

Marcia G. Patrisso, RMR, CRR  
Official Court Reporter  
John J. Moakley U.S. Courthouse  
One Courthouse Way, Room 3510  
Boston, Massachusetts 02210  
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

## 1 APPEARANCES:

2 OFFICE OF THE UNITED STATES ATTORNEY

3 By: William D. Weinreb, Aloke Chakravarty and

4 Nadine Pellegrini, Assistant U.S. Attorneys

5 John Joseph Moakley Federal Courthouse

6 Suite 9200

7 Boston, Massachusetts 02210

8 On Behalf of the Government

9 FEDERAL PUBLIC DEFENDER OFFICE

10 By: Miriam Conrad, William W. Fick and Timothy G. Watkins,

11 Federal Public Defenders

12 51 Sleeper Street

13 Fifth Floor

14 Boston, Massachusetts 02210

15 - and -

16 CLARKE &amp; RICE, APC

17 By: Judy Clarke, Esq.

18 1010 Second Avenue

19 Suite 1800

20 San Diego, California 92101

21 - and -

22 LAW OFFICE OF DAVID I. BRUCK

23 By: David I. Bruck, Esq.

24 220 Sydney Lewis Hall

25 Lexington, Virginia 24450

On Behalf of the Defendant

P R O C E E D I N G S

THE CLERK: All rise for the Honorable Court.

THE COURT: You may all be seated.

(The Court enters the jury assembly room at 1:08 p.m.)

Good afternoon, ladies and gentlemen.

THE JURORS: Good afternoon.

THE COURT: I want to welcome you to this proceeding of the United States District Court for the District of Massachusetts and to thank you for coming here today. You are here, as I believe you probably know, because you have been summoned to be available for service as a trial juror in this court.

The resolution of legal controversies, both civil and criminal, by trial of the matter before a jury of citizens drawn from the community is one of the most fundamental principles at the core of our entire system of justice. You may recall from your study of American history that among the grievances against King George that was set forth in the Declaration of Independence were that he has "obstructed the administration of justice," and further, "has made judges dependent on his will alone." Because of their experience in this respect, the founders were determined that the Constitution of the new nation would guarantee the right to trial by jury, and they wrote that guarantee into the Sixth and Seventh amendments of the Constitution in the Bill of Rights.

1 In doing so, they assured that the outcome of legal cases would  
2 ultimately be entrusted not to officers of the government  
3 alone, but rather, to the public: ordinary citizens convened  
4 and acting as trial jurors.

5 We're in the process of selecting a jury for the trial  
6 of a criminal case. The name of the case is *United States v.*  
7 *Dzhokhar Tsarnaev*. Mr. Tsarnaev is charged in the case in  
8 connection with events that occurred near the finish line of  
9 the Boston Marathon on April 15, 2013, and that resulted in the  
10 deaths of three people. He's also charged in the death of an  
11 MIT police officer and other crimes that occurred on April 18  
12 and 19, 2013.

13 In a criminal prosecution the burden is always on the  
14 government to prove by factual evidence that the defendant is  
15 guilty of any crime he is accused of, and accordingly, every  
16 defendant is presumed to be not guilty until the government has  
17 proved otherwise at trial. The government bears the burden of  
18 proving a defendant's guilt beyond a reasonable doubt.

19 The jury that we are in the process of selecting today  
20 and in the next several days will have the task of considering  
21 the evidence produced during the trial, and deciding on the  
22 basis of that evidence whether the government has proven the  
23 defendant's guilt of the charges against him beyond a  
24 reasonable doubt or not.

25 This case differs from many other criminal cases,

1     however, in a significant way. Usually after a jury has  
2     convicted a defendant of a crime, the presiding judge decides  
3     on what the punishment should be. In this case, however,  
4     Mr. Tsarnaev is accused of crimes that are potentially  
5     punishable by a sentence of death. If after trial he is  
6     convicted of any of these crimes, under the law it is the  
7     responsibility of the jury and not the judge to decide whether  
8     Mr. Tsarnaev should be sentenced to death, or instead,  
9     sentenced to life imprisonment without the possibility of  
10    release, which is the only other possible sentence for these  
11    crimes.

12             In essence, in our democracy, we have committed these  
13    solemn and important decisions not to judges answerable to the  
14    sovereign alone, not to the press, not to public opinion, and  
15    certainly not to the mob. We have committed this important  
16    duty to ourselves collectively as the people, the people who  
17    establish the constitutional order in the first place. And we,  
18    the people, therefore, ask some of our fellow citizens to  
19    assume the high duty of convening as a trial jury to consider  
20    and resolve the issues presented with a firm disposition and  
21    commitment to do justice fairly and impartially.

22             Accordingly, it is the civic responsibility of every  
23    citizen to appear and serve as a juror when called unless  
24    seriously unable to do so. Such a service is both an  
25    obligation of citizenship and an opportunity to perform a vital

1 public and civic function. Juries are composed of citizens  
2 from all walks of life, each of whom brings his or her own  
3 individual perspective and life experience to the task. You do  
4 not need to have any particular education or experience to be a  
5 juror; what you do need is a commitment to do justice.

6 Acknowledging the importance of jury service is not to  
7 ignore the obvious point, that your appearance here is, at the  
8 very least, inconvenient. We ask jurors to set aside for a  
9 time their usual routines to perform an essential and necessary  
10 public service. Certainly serving on a jury, if you're asked  
11 to do so, will require you to make some adjustments in your  
12 daily lives.

13 You should not however think of your jury service, if  
14 you're chosen to sit, as an annoying burden. Jurors regularly  
15 report to my colleagues and to me that they have found their  
16 service to be one of the most interesting and memorable  
17 experiences of their lives. After most trials, I meet briefly  
18 with the jurors to thank them for their service. Uniformly,  
19 during those discussions, jurors tell me that the experience  
20 was worthwhile, interesting and fundamentally important to  
21 them.

22 Jurors who seemed to me at the outset to be nervous  
23 and unsure at the beginning of a case after a verdict have a  
24 calm and solemn sense of a duty responsibly performed. If you  
25 are chosen to serve in this case, I fully expect you will find

1 the experience to be the same.

2 Let me tell you how we're going to proceed with the  
3 selection process. When I am finished with these preliminary  
4 remarks, a questionnaire will be distributed to each of you.  
5 You'll each fill out the questionnaire before leaving today.  
6 As you fill it out, please do not discuss either the questions  
7 or your answers with anyone else, including the court staff,  
8 who have been instructed not to help you with filling out the  
9 questionnaire. The information on the questionnaire must come  
10 from you and you alone.

11 Also, please understand there are no right or wrong  
12 answers to the questions. All that we ask is that you answer  
13 each question truthfully and completely to the best of your  
14 ability. The questionnaires are not intended to pry into  
15 personal matters unnecessarily. There are some personal things  
16 we must know in order to assure both sides in this case that  
17 the trial will be conducted before a jury that is in truth fair  
18 and impartial. Additionally, as a practical matter, the use of  
19 the questionnaires makes the process somewhat less  
20 time-consuming and inconvenient for you.

21 When you've filled out your questionnaire completely,  
22 you will give it to the court staff, and you will then be free  
23 to leave. During the coming week, the questionnaires will be  
24 copied and then reviewed by the attorneys working on the case  
25 and by me. The completed questionnaire will be reviewed

1 initially only by the participants in the case and the Court.  
2 The filled-out questionnaires will not become part of the  
3 public record unless and until I determine whether they contain  
4 sensitive information that should be kept confidential  
5 permanently. If they do, I intend to keep that information and  
6 any possible follow-up questions concerning it from being  
7 available in the public record.

8 When you leave, the court staff will give you a  
9 telephone number to call next week so that you may listen to a  
10 prerecorded message that will tell you about your possible  
11 service in this case. Some jurors will be told then that they  
12 have been excused permanently, some jurors will be told to come  
13 to court again on a particular day to participate further in  
14 the process, and some jurors will be told to call in again  
15 later to get further instructions at that time.

16 If you are selected to serve, the trial proper is  
17 expected to start on or after January 26th, and is expected to  
18 last perhaps three to four months. The trial will generally be  
19 conducted on a schedule Monday through Thursday each week from  
20 about 9 a.m. to 4 p.m. with time for breaks and lunch, of  
21 course. The jury will not ordinarily sit on Fridays except in  
22 a week where a legal holiday is observed on a Monday. The  
23 trial will continue through any school vacation week.

24 If you are concerned that service as a juror in this  
25 case would be an unusually difficult hardship for you, you'll



1 have the chance to describe that hardship in the questionnaire.  
2 If you're not excused then based on what you have written,  
3 which might happen, I will later discuss your hardship request  
4 in person with you when you come back to court. Any request to  
5 be excused for this reason will be seriously considered;  
6 however, I cannot guarantee you will necessarily be excused if  
7 you think jury service in the case would be a hardship for you  
8 because finding a jury that represents a fair cross-section of  
9 the community will always pose some degree of hardship for  
10 those citizens who are chosen to serve.

11           It is important that the men and women who are chosen  
12 to serve as jurors in this case be able to listen to the  
13 evidence presented in court and decide the issues in the case  
14 fairly and impartially. I'll be using those terms "fairly" and  
15 "impartially" again at times during our process. Let me tell  
16 you briefly what I mean. To serve fairly and impartially means  
17 to base a decision based on the evidence presented to you in  
18 court during the trial, applying the principles of laws as I  
19 will describe them for you, and not based on any bias or  
20 prejudice or anything else you have seen, heard, read or  
21 experienced outside the courtroom including anything you think  
22 you may have previously learned from, say, reports in the  
23 media.

24           There has been a great deal of publicity about this  
25 case and there will continue to be. The mere fact that prior

1 to this you may have heard or read something about the case  
2 does not automatically mean that you cannot be a juror, but you  
3 must be able to decide the issues in the case based on the  
4 information or evidence presented in the course of the trial  
5 and not any information from any other source.

6 The purpose of the jury selection process is to ensure  
7 that each person selected is an appropriate juror for this  
8 case, that the jury as a whole will fairly represent the  
9 community, and that the jury will assure that the parties get  
10 what they are entitled to: a trial before a fair and impartial  
11 jury.

12 I now will introduce some of the people who will be  
13 involved in the trial of the case. The government is  
14 represented at this trial by Assistant United States Attorneys  
15 Al Chakravarty.

16 MR. CHAKRAVARTY: Good afternoon.

17 THE COURT: Nadine Pellegrini.

18 MS. PELLEGRINI: Good afternoon.

19 THE COURT: And William Weinreb.

20 MR. WEINREB: Good afternoon.

21 (Counsel for the government rise.)

22 THE COURT: And an additional attorney, Steven Mellin,  
23 who was unable to be with us for this session.

24 The defendant, Dzhokhar Tsarnaev, is represented by  
25 attorneys David Bruck, Judy Clarke, Miriam Conrad, Bill Fick

1 and Tim Watkins.

2 (Counsel for the defense rise.)

3 THE COURT: The defendant, Mr. Tsarnaev, is also  
4 present, and I ask him to stand.

5 (The defendant complies.)

6 THE COURT: Thank you. You may be seated.

7 Although you have heard only briefly about the case  
8 this morning, and indeed have heard nothing in the way of  
9 evidence, it is extremely important until further notice that  
10 you do not discuss this case among yourselves or with anyone  
11 else. That is because as I've said, a jury's verdict must be  
12 based on the evidence produced at trial, it must be free of  
13 outside influence. Therefore, I now order each of you not to  
14 discuss this case with your family, friends or any other person  
15 until either I excuse you, or if you're selected as a juror,  
16 until the end of the case. This is a formal court order, the  
17 willful violation of which is potentially punishable as a  
18 contempt of court or otherwise.

19 You may tell others that you are possibly going to be  
20 a juror in the case, and you may discuss the schedule with your  
21 family and employer because they're entitled to know when you  
22 might not be available; however, you may not discuss anything  
23 else or allow anyone else to discuss things with you about the  
24 case until you're excused, or if you're a juror, until the case  
25 has concluded.

1           This means, among other things, that you may not speak  
2 to any member of the news media about the case. There is  
3 legitimate public interest in this case and the news media play  
4 a vital role in informing the public about it. It would,  
5 however, be improper for you at this time under your  
6 consideration as possible jurors to discuss the case or your  
7 role in it with any of them. So if anyone does approach you to  
8 speak about the case, you should politely decline. If anybody  
9 persists, please inform the jury clerk or other court staff  
10 about that.

11           Similarly, I instruct you now for the time being not  
12 to read, watch or listen to any reports about the case in the  
13 media, again, until either you have been excused or, if  
14 selected, until the case has concluded. If you should by  
15 chance encounter a news story in the newspaper or on the radio  
16 or television or on the internet, please just turn the page,  
17 change the channel or close the screen. Do not read, listen to  
18 or watch anything related to reports about this case, and do  
19 not under any circumstances do any research, including online  
20 research, about the case or anybody or anything connected with  
21 it. This includes, of course, Googling or otherwise  
22 researching the defendant, witnesses, the events, any of the  
23 trial participants including the lawyers and even myself.

24           Likewise, you must not communicate with anyone, not  
25 only in person, or allow anybody to communicate with you that

1 way, but not by telephone, text message, Skype, email, various  
2 social media such as Twitter or Facebook. In addition, to  
3 protect the integrity of this process, please do not discuss  
4 this case or anything I have said to you this afternoon with  
5 other potential jurors or anyone else today.

6 So we're just about finished with these remarks.

7 Take the time to answer the questionnaire  
8 thoughtfully, honestly, completely. Remember, again, there are  
9 no right or wrong answers to any of the questions. Please  
10 write or print clearly. Do not fill out that portion of the  
11 form which you will see marked "Juror No.\_\_\_\_." The court staff  
12 will fill those numbers in once you've completed your  
13 questionnaire.

14 If you cannot answer a question because you do not  
15 understand it, write: "Do not understand." If you can't  
16 answer a question because you don't know the answer, write:  
17 "Do not know." If you want to explain your answer to any  
18 question, you may do so in the space provided on the  
19 questionnaire, and if you need more space, there is space at  
20 the last question on the questionnaire where there are  
21 additional places for you to write. If you use that space,  
22 please be sure to indicate which question you're responding to  
23 in that space.

24 Fill out the entire questionnaire. If you would  
25 prefer to answer a sensitive question orally rather than in

1 writing, you may write "private" in response to that question  
2 and we'll follow up orally with you.

3           You'll receive two attachments with the questionnaire,  
4 A and B. These are lists of potential witnesses in the case.  
5 As you'll read in the instructions when you complete the  
6 questionnaire, you should treat them differently. If you  
7 believe you know someone on Attachment A, which is the longer  
8 of the two lists, then just write the number of that person --  
9 there will be a number associated with the name -- in response  
10 to the appropriate question in the questionnaire. On the other  
11 hand, if you believe you know someone on Attachment B, which is  
12 a shorter list, just circle that person's name on that list and  
13 make no mark in the questionnaire.

14           Because your answers to all the questions in the  
15 questionnaire are an important part of this process, your  
16 answers, of course, must be truthful and you must sign the  
17 questionnaire under the pains of perjury at the end.

18           Again, when you've completed and signed it, you should  
19 give the questionnaire to a member of the court staff. Before  
20 that, you may not leave the room with the questionnaire or  
21 either of the attachments.

22           So let me conclude as I began by thanking you all for  
23 being here this afternoon and for taking part in this important  
24 process. We need your help and we need your honest performance  
25 in this important duty of citizenship.

1           We'll now recess the session of the court and  
2     distribute the questionnaires.

3           THE CLERK: All rise for the Honorable Court.

4           (The Court exits the jury assembly room and the  
5     proceedings adjourned at 1:27 p.m.)  
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## C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 13-10200-GAO, United States of America v. Dzhokhar A. Tsarnaev.

/s/ Marcia G. Patrisso  
MARCIA G. PATRISSE, RMR, CRR  
Official Court Reporter

Date: 9/8/15